

# THE WESTERN CAROLINIAN.

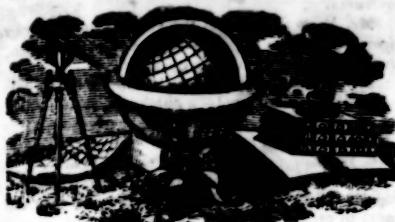
—THE POWERS NOT DELEGATED TO THE UNITED STATES BY THE CONSTITUTION, NOR PROHIBITED BY IT TO THE STATES, ARE RESERVED TO THE STATES RESPECTIVELY, OR TO THE PEOPLE.— Amendments to the Constitution, Article X.—

B. AUSTIN & C. F. FISHER,  
Editors and Proprietors.

SALISBURY, N. C., DECEMBER 20, 1839.

NO. XXVII. OF VOL. XX.  
(Whole No. 1017.)

## Salisbury Female Academy.



The Trustees of the Salisbury Female Academy

INFORM the public, that this Institution will be opened on Monday, the 14th of October next. It is their intention to place this Seminary on a permanent and respectable basis; and no care will be wanting on their part, to render it, in every respect, worthy of the confidence of the friends of education, morality and religion, who seek for their daughters a place where intellectual and moral culture combined, will prepare them to occupy with usefulness and dignity, the sphere to which they may be called.

They are now making all suitable efforts to secure for Teachers, a Gentleman and Lady of high qualifications. Meanwhile, they have engaged Miss Emma J. Baker, a young Lady, in whose literary qualifications and capacity for such a situation, they have perfect confidence; and who has hitherto taught music in this, and other Seminaries, with entire satisfaction. As soon as the other Teachers are obtained, Miss Baker will again devote herself exclusively to the musical department.

### TERMS OF TUITION.

For beginners per session of 5 months, \$9 00  
For the Rudiments with Grammar, Geography and History, 10 00  
The above, with the higher branches in Literary Department, 12 50  
Music on the Piano, Guitar, 25 00  
Painting, 10 00  
Ornamental Needle-work, and the making of wax flowers will be also taught, if desired, at \$5 each.

By order of the Trustees.

THOMAS L. COWAN, Chairman.  
Salisbury, Sept. 27, 1839.

## FEMALE SCHOOL IN HILLSBOROUGH.

THE Spring Session of Mr. and Mrs. BURWELL's school for Young Ladies, will open on Monday, the 6th of January.

The course of study embraces all the branches of a good English education, the Latin and French languages.

Parents and Guardians are referred for particulars to either of the following gentlemen:

Hon. F. NASH, Hillsborough.  
Dr. JAS. WEBB, Hillsborough.  
JNO. W. NORWOOD, Orange.  
Hon. W. P. MANGUM, Raleigh.  
Rev. D. LACY, Lincoln.  
Rev. F. NASH, Lincoln.

Board can be had in the most respectable families, and parents wishing to place their daughters at school, can hear of boarding houses on application to us.

Music, Drawing and Painting will be taught by a well qualified and experienced teacher.

Terms as heretofore.

|                       |         |
|-----------------------|---------|
| English studies,      | \$17 50 |
| Latin,                | 10 00   |
| French,               | 15 00   |
| Music,                | 25 00   |
| Drawing and Painting, | 15 00   |

December 6, 1839. 41.

LEATHER, — Boots, & Shoes.  
THE SUB SCRIBERS

WOULD inform the public, that they still carry on the Tanning Business, and in connection with the BOOT and SHOE MAKING at their Tan Yard, on the 2nd Square, East of the Court-House; where they have on hand a quantity of excellent Sole-Leather and Skirting, Harness, Bridle, and Upper Leather, Covering Leather for Coach-makers, and Horses Collars.—Also a large supply of BOOTS, of first and second quality; Gentlemen's, Ladies', and Children's SHOES, of a superior quality; and a large stock of coarse Shoes, of a superior quality.

As we have procured first rate workmen, we have no hesitation in warranting our work to be as well done as any in the State, which we will sell low for Cash, or on time to punctual dealers.

Orders from a distance punctually attended to.

A few first rate pair of Boot Trees, and a set of second hand Laces for sale.

BROWN & CHAMBERS.

N. B. Hides will be taken in exchange for work done in the above business.

Salisbury, Sept. 6, 1839. 15.

CRESS & BOGER, Agents.

Messrs. SPRINGS & SWANSON, in Concord, N. C., are also Agents for the same.

P. S. See advertisement.—April 4, 1839. 11.

## Tailoring Business.

The Subscriber keeps constantly on hand, a general assortment of

## READY MADE CLOTHING,

for Gentlemen's wear, such as Coats, Pantaloons, and Vests, of good

## Goods,

well made and fashionable. He is also prepared to cut and make clothing in the most fashionable and durable style, and warranted to fit. He also keeps a good assortment of Cloths, Cassimeres and Vestings of the first qualities, selected by himself in the New York Market, all of which he will sell low for Cash.

N. B. He still continues to teach the art of Cutting garments on the most approved plans of the best Tailors in New York and Philadelphia.

—Cutting for customers done on the shortest notice, and orders from a distance attended to with despatch.—His shop will be found in Mr. Cowan's large brick building.

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tellers were appointed; and when the House was about dividing, one of the tellers inquired who he should count from the State of New Jersey. The Chair decided that the tellers should count the members from that State who had the Governor's certificates. From this decision an appeal had been taken, and the House had reversed the decision of the Chair. Then, he apprehended, they stood precisely where they did when this appeal was taken; and the question now would be upon the motion to lay on the table; and he thought the proper course now would be for the tellers to count all who passed through, and if any of the disputed members should vote, let them report that fact to the House. He hoped that the Chair would direct the tellers to count all who passed through.

Mr. Saltonstall hoped that no such direction would be given.

The Chair said he had made his decision—that the decision had been reversed; and it would now be for the House to decide who should represent the State of New Jersey.

Mr. Tillinghast thought the Chair ought not to put the question on the motion to lay on the table until the House had decided who should vote from the State of New Jersey. The appeal from the decision had been sustained, and it had been sustained, if we looked at the argument upon it, upon two grounds. One was that the matter was a proper subject for the House to determine, and the other was that the decision was incorrect, whether by the Chair or the House.

Mr. Turney rose to a point of order. The question, as he understood it, was to lay the resolution of the gentleman from Virginia on the table; and the question to lay on the table, according to the rules, was not debatable.

The Chair said that the question as to who were to represent the State of New Jersey must first be decided, before the question to lay on the table came up.

Mr. Smith of Maine said that the Chair had directed that the gentlemen from New Jersey were entitled to vote. An appeal had been taken from that decision, and it had been reversed, and the gentleman from Rhode Island [Mr. Tillinghast] had attempted to give the reasons for this vote of the House; but he would tell the gentleman that the strongest reason which operated upon him, was the 34th rule of the House. He thought the House had a right to decide under that rule, when gentlemen were directly, personally, and immediately interested, that they should not vote. He believed that many other gentlemen, besides himself, had voted against the decision of the Chair in consequence of this rule.

Mr. McKay moved that none of the disputed members from New Jersey be permitted to vote until the question was decided.

Mr. Graves rose to a question of order. His point was this: there was a question before the House, and the previous question had been moved up; therefore, no gentleman had the right to bring up a separate and independent proposition until that question was disposed of.

The Chair said the previous question could not be put until this question as to who should represent the State of New Jersey should first be decided.

Mr. McKay then moved that neither set of members from New Jersey shall vote until the question who shall vote from the State of New Jersey shall be first decided by the House. He contended that this was the proper course to be pursued, and read an extract from Hatzell in support of his position. It was the uniform practice in the British Parliament, when seats were contested, that both parties should withdraw until their case was decided by those who were not personally interested in the matter. This was the only correct and proper course to be pursued, and he hoped his proposition would be agreed to by the House. He also referred to the case of Howell and Everett of Rhode Island, in the continental Congress, which had been cited by the Chairman, and showed that the Rhode Island members did not vote on their own case in the first instance. Subsequently, however, they did vote upon such questions as were presented.

Mr. Profit rose to appeal from the decision of the Chair. [“What decision?” from different parts of the House.]

Mr. W. C. Johnson rose and stated that he held in his hand a series of resolutions to offer, which would bring the House directly to a vote on the question at issue. [Cries of “order, order, order.”]

Mr. Petrikian rose to a point of order. He wished to know whether it was competent for the Chair to entertain three or four propositions at one time.

Mr. Johnson. Let the gentleman reduce his point of order to writing.

The Chair requested that the gentleman from Pennsylvania should reduce his point of order to writing.

Mr. W. C. Johnson would say what he had to say upon his resolution, while the gentlemen was preparing his point of order. Mr. J. held that the House had not the right to vote out the Representatives of an entire State. The House must conform to the Constitution and the laws, and they expressly inhibited the House from taking such a course, unless the members were sworn in. He contended that they could not adopt the proposition of the gentleman from North Carolina, because, by the law of apportioning Representatives, New Jersey was entitled to six Representatives, and it was not in the power of this House to deprive her of that representation.

Mr. Petrikian then presented his point of order in writing; but—

The Chair decided against it, because the question to lay on the table could not be pending while the preliminary question was undecided.

Mr. Petrikian raised an additional point of order, as to whether any other motion could be made, which would set aside that motion. If such was the decision of the Chair, he would appeal from that decision.

The Chair said that whatever question might arise, the moment the House came to vote upon it, the question would arise as to who should vote upon it; and the question as to who should vote, must be settled before the question to lay on the table can be put.

Mr. Rhett thought the proper course should be to decide one question at a time. Mr. R. went over, and summed up the various questions presented to the Chair, and concluded by moving the previous question on the appeal taken by Mr. Petrikian.

Mr. Briggs contended, that as the question pending was on the motion of Mr. McKay, an appeal could not be taken on any other question.

The Chair then decided that Mr. Petrikian's motion could not be entertained.

Mr. Petrikian. Then I appeal from that decision.

[Loud cries of “order!” “order!” “order!”] Mr. Johnson then asked for the reading of his resolution.

Mr. Bynum objected to this course of piling motion upon motion. If we did not go on and do.

side questions according to some rule of prior, it would be utterly impossible to do any thing.

Mr. Johnson said he offered his resolution as a substitute for the motion of the gentleman from North Carolina. Mr. J.'s resolution was then read as follows:

*Resolved*, That a certificate of election as a member of the House of Representatives of the United States, duly made, in conformity with the laws of the State which the parties profess to represent, and signed by the proper officers under the great seal of the State, is sufficient *per se* to entitle the person to whom it is given to be sworn in as a member of the House, provided that no State shall have more Representatives than is allowed to it by the Constitution and laws of the United States.

*Resolved*, That under the fifth section of the second article of the Constitution, the House of Representatives of the United States can only look beyond such certificate, and judge of the election, returns, and qualifications, of its own members, after it shall have been organized and sworn.

Mr. Johnson said he offered this proposition as an amendment to the motion of the gentleman from North Carolina, because he felt that he could not vote on the motion of that gentleman. We have not yet been sworn; we have not taken the oath of office prescribed by the Constitution of the United States, and he could not consent to see the House proceed to the solemn farce or mockery of voting the Representatives of a whole State out of this House, when the members of the House were not under the moral and religious obligations required by the Constitution.

The Chair said he did not feel authorized to entertain a resolution, the effect of which would be to deprive the State of New Jersey of her representation on the floor. It was not competent for this meeting to pass such a resolution. The resolution of the gentleman from North Carolina declared, in effect, that the people of the State of New Jersey should not be represented on this floor, and the Chair could not put the question, upon such a resolution, to the House.

Mr. Johnson. Then I will offer my resolution as a separate and distinct proposition. In reply to a proposition which had been made by some gentlemen on the floor, that all the members from New Jersey might vote, provided the result was not changed, he wished to say a few words. New Jersey was entitled to but six Representatives under the law apportioning Representatives, and he held that it would be a monstrous innovation for the House to permit eleven members from that State to vote. That State was entitled to six Representatives, and she was entitled to no more; and the question here was, who those six representatives should be? This question was settled by the Constitution of the United States and the laws of New Jersey, and it was incompetent for this House to take any question upon that it was first organized, and gentlemen had taken the oath of office.

Mr. Francis Thomas rose to ask the gentleman from North Carolina [Mr. McKay] to withdraw his proposition, in order that another effort might be made to settle this question. Mr. T. said he had moved no preliminary proposition, he had offered no amendments to propositions which had been before the House; not because he had not felt deeply interested in the questions—not because he did not feel a deep anxiety to see the House organized in an orderly manner, and at an early day, but because he believed that all the preliminary questions had a tendency to postpone the organization of the body. He believed that a large majority of the members of the House had made up their minds as to how they would vote on this question, in any shape which it might assume. Then let it be the effort of every gentleman to bring the House to action. What was the course best calculated to do so? Was it best for us to be chasing shadows and discussing questions which may never arise? We would have difficulties enough, by pursuing a straight forward course, without stepping aside to raise difficulties which were not in our way. He knew that there were members here who held the opinion that four of these New Jersey members could vote upon the right of the fifth to take his seat. This was not his opinion; but he proposed to avoid, if possible, that and other such questions, because if we went on to discuss them, as we had done, we might be discussing here till doomsday, without arriving at any practical result. The course, then, which he intended to pursue was, not to meet preliminary questions unnecessarily. Let the vote be taken.

It was possible, when it was taken, that the case would stand as it stood to day. It may be that the votes of the five disputed members from New Jersey would not change the result, whether counted or not.

When the vote was taken this morning, it appeared that four of the disputed New Jersey members had voted, but their votes could not change the result, therefore no objection had been made from any quarter to their voting.

By this course, the House may avoid deciding on these vexed preliminary questions, and he thought every gentleman ought to endeavor to avoid them if possible; the public interest required this; but if they were to be decided on, let them be decided on when the necessity for it arises. It will be time enough, then, to decide on them.

With regard to the proposition of the gentleman from North Carolina, it, in his opinion, decided nothing. That proposition, as stated verbally, is, in effect, that the members from New Jersey shall not vote until the House decides that they shall vote.

Well, suppose this proposition should be adopted by the House, it would be a mere abstraction. The House must then go a step further, and say whether they shall vote or not. It will be competent, then, for gentlemen to say that he (Mr. T.) should not vote until the House decides that he should vote. The same objection might be raised to any other gentleman's right to vote, and day after day would be spent in these preliminary questions, and no good would result from it. Then let us meet the question to day, and come up to the question which is best calculated to avoid all difficulty. Let us take the vote to lay the resolution of the gentleman from Virginia on the table, or to reject it; and if the vote of the disputed members from New Jersey does not change the result, let the decision of the House be pronounced without raising these preliminary questions of abstract right which serve but little practical purpose. This course had been suggested by the Chair some days ago as the proper course to be pursued, and he hoped the House would take up this suggestion and act upon it now. In urging this course upon the House, he would state that his sole object was to bring the House to action and avoid those difficulties in which the House had been long involved, to the injury of the public service, and at the risk of its own dignity and capacity for future usefulness.

Mr. Slade then rose and made some remarks, which will be reported in full hereafter.

Mr. Graham of North Carolina rose to a question of order, several members trying to obtain the floor, and speaking at the same time.

The Chair again stated the question. The House must first decide who shall vote as members of New Jersey, and then the question on the motion of the gentleman from South Carolina could be put. The Chair would, however, suggest a substitute for his decision, which he would adopt, if it met with the concurrence of the House. This was the course of procedure he suggested on Saturday last, and which had been already adopted on taking two or three questions; that is, the Chair would put the question, and the tellers would, on

[Mr. Wise] on the table. Then let the Clerk go on and call the roll, calling the members from New Jersey, who had presented the legal formal certificates, according to the Constitution and the laws of New Jersey. Then we will be prepared to vote; and when we come to vote upon any question, if the votes of the New Jersey members will not change the result, nothing need be said about their voting; but if it does, then the tellers can report the fact to the House and the House can then act upon the question. He thought this would be the most satisfactory mode of getting over all difficulty in relation to this question, and hoped gentlemen would cease pursuing shadows, and unite upon some practical proposition of this kind.

Mr. McKay, after a few remarks, which in consequence of the noise and disorder prevailing, with repeated calls to order, were not heard, said that he had before expressed the opinion, which he repeated that neither party should be permitted to vote. The question has been submitted to the Chair, but the Chair refused to put it, until it should be decided by the House who should vote as members from the State of New Jersey. The House had already decided that the five New Jersey gentlemen who held the certificates of the Governor should not vote, and the Chair refuses now to put any question to the House, for the reason that it must first decide who are to vote as members from New Jersey, while there is no proposition to decide that point, either in the affirmative or negative before the House. This he considered to be a monstrous assumption of authority by the Chair. The House has decided that five of the claimants shall not vote, and a member then submits a motion that the other five also shall be prevented from voting until the controversy is decided. The Chairman then declares that, while he occupies that chair, he never would permit a sovereign State to be disfranchised, by prohibiting her Representatives from voting on any question before that House; and therefore he declares that he would not put the question. Did not the Chairman himself at the last session, submit a resolution to the House, that no member whose seat was contested should be entitled to vote upon any question before the House, until his right to a seat should be first investigated and decided upon? Now if it was constitutional for the Chairman himself to present that resolution as a member of the House of Representatives, was it not constitutional for him as a member of the House of Representatives, to offer a similar proposition? If however, the House was willing to proceed at once to a vote, he would be willing to withdraw his proposition.

Mr. Craig asked if the House was now about to decide the right to seats of the members from New Jersey? He asked, in the language of the eloquent gentleman from Georgia, who addressed them the other day, how was the House to enforce its edicts? Under the difficulty they were involved in the other day, the Clerk deciding that he could not put a question, a Chairman was appointed, who had the power to put questions.

Now, what did the Chair tell this House just now? “As long as I occupy this chair, I will not suffer a sovereign State to be disfranchised by excluding the votes of her members on any question before the House.” Sir, said Mr. C., we can never get along unless we attack difficulties one at a time.

The first difficulty was that produced by the Chair itself, in declaring that he would not put a question; his refusal to regulate the edicts of the House.

The House had determined that the members who presented the certificates of the Governor of New Jersey shall not be permitted to vote. Let us, then, (said Mr. C.) dismiss all quibbles; let us feel and act as men, and consider this tantamount to a decision that neither party shall vote until the controversy is settled. [So much noise and confusion prevailed while Mr. Craig was speaking, that the Reporter heard him very imperfectly; and, in the concluding part of his remarks, his voice was completely drowned by the cries of “order, order! go on, go on, go on!” etc.]

Mr. Rhett, in reply to some words from Mr. Wise, not heard, declined to withdraw his motion to lay the gentleman's resolution on the table. The question, he said to decide the fate of that resolution, to lay it on the table as in any other way.

Mr. Johnson of Maryland, then said he refused to withdraw his motion, whereupon,

Mr. Wise moved the previous question on it. Mr. Rhett then asked if that resolution of Mr. Johnson's was before the House.

The Chair answered, that no question could be before the House, until it should decide who should vote as members from the State of New Jersey.

Mr. Rhett stated the question, as he understood it. It first arose on his (Mr. R.'s) motion to lay Mr. Wise's resolution on the table; next on the resolution of the gentleman from Maryland, as a substitute; and then came the decision of the Chair, that no question could be put until the House decides who shall vote as members from New Jersey. Now he moved to lay the question raised by the Chair on the table.

Mr. Wise informed the gentleman from South Carolina [Mr. Rhett] that no motion could be put on that question until the preliminary one of who was entitled to vote should be first decided.

Mr. Slade desired to know the question that was before the House.

The Chair said that the main question was for the meeting to determine who was entitled to vote from the State of New Jersey. The House having determined, by reversing the decision of the Chair, that the members holding the certificates of the Governor of New Jersey should not vote, it was now necessary that the meeting should say who was entitled to vote, inasmuch as they would not deprive a sovereign State of its representation on the table.

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counting the votes, report the result to the House; and whether any of the members whose seats were contested voted on the same, and should it be found any such voting would change the result, it would be for the House to determine whether such votes should be counted.

Mr. Black asked the Clerk to read the resolution, and it was read as follows:

*Resolved*, That the acting Clerk be directed to call the members of the House, including, in such call, the members from New Jersey, who have the certificates of the Governor of that State, that they are elected as Representatives of the Twenty-sixth Congress.

Mr. Slade rose and contended for his right to go on with his remarks.

The Chair said that the question was, who should vote from the State of New Jersey.

Mr. Wise. The question is on the motion of the gentleman from South Carolina to lay my proposition on the table; and therefore, the gentleman from Vermont was speaking out of order. We are come now, said Mr. W. to the direct question, and hoped gentlemen would cease pursuing shadows, and unite upon some practical proposition of this kind.

Mr. Slade rose and contended for his right to go on with his remarks.

The Chair said that the question was, who should vote from the State of New Jersey.

Mr. Wise. The question is on the motion of the gentleman from South Carolina to lay my proposition on the table; and therefore, the gentleman from Vermont was speaking out of order. We are come now, said Mr. W. to the direct question, and hoped gentlemen would cease pursuing shadows, and unite upon some practical proposition of this kind.

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to Mr. Naylor's right to vote, by tellers, and stood,

Ayes 119, Nays 112.

[This vote excited great contention in the House, it being the first vote where the Whigs had the majority. The effect of this vote was to sustain the vote of yesterday, that Mr. Wise's resolution should be laid upon the table.]

The next question that came up was upon the right of Mr. Ayerig, of New Jersey, to vote.—His commission was read, and the law of New Jersey, and the evidence in part connected with the facts in the case, when the vote was taken upon Mr. Ayerig's right to a seat. Tellers were demanded, and the result was—in favor 117, against him 122. Four of the Whig members from New Jersey voting in his favor, and three of the Administration claimants against him. So the House decided that Mr. Ayerig's vote should not be counted.

The House was very quiet when Mr. Adams gave the decision, and all eyes were upon him when he said, "The Chair considers the vote unconstitutional"—(laughter and excitement)—"but in consideration of the fact that the majority have reversed his decision, he feels bound to state that Mr. Ayerig's vote cannot be counted." The meeting then decided, 122 to 116, that Mr. Maxwell's vote should not be counted, and a decision immediately followed of a similar result in regard to other members. The last vote was 110 to 117 against allowing the New Jersey Whig members to vote.

The next question on which a vote was taken was whether Mr. Ingersoll should be allowed to vote. Mr. Ingersoll attempted to speak, but was called to order.

Mr. Peck of N. Y. told him if he had a speech to make, he had better go to the Rotunda and make it; he did not belong here.

The vote was then taken upon Mr. Ingersoll's right to a vote, and decided against Mr. Ingersoll's right, 155 members voting against it, and not one for it. After this vote had been taken, Mr. Adams in the chair stated the position of the questions before the House. They had decided upon Mr. Naylor's right to vote. His own decision, that Mr. Naylor had a right to vote, was sustained.

Mr. Wise then again brought forward his resolution that the New Jersey members should be enrolled and take part in the organization.

The ayes and nays on this question were then called—a breathless silence almost pervading the Hall during the time of reading the names of the members. The vote was

In favour of Mr. Wise's resolution

115

Against it

118

The New Jersey members did not vote, except Mr. Randolph, whose seat is uncontested. Mr. Naylor voted.

Mr. Rhett, of South Carolina, then moved an important resolution, the effect of which was that the Clerk should call the names of all the members whose seats are uncontested, and that the members thus called shall be a quorum to settle the claims of members—that Mr. Naylor's seat shall not be included in the contested seats, and that the quorum shall decide the contested elections before proceeding to the election of a Speaker. The ayes and nays were demanded upon Mr. Rhett's resolution, which was decided affirmatively.

The vote upon Mr. Rhett's resolution—the last clause of it referring to Mr. Naylor's right to vote,—was

Ayes 138, nays 92.

Mr. Campbell, of South Carolina, has submitted an important proposition, that the House immediately organize by the appointment of a temporary Speaker and Clerk, for the purpose of receiving the Message, &c. After the Speaker is appointed and the House temporarily organized for the purposes named, the contested seats are to be settled, and then new officers appointed. Mr. C. thinks this the only way to get the House out of difficulty.

Mr. Gravie said that the proposition of the gentleman from South Carolina (Mr. Campbell) was in substance that offered by the gentleman from Virginia, (Mr. Wise); and he saw no necessity for the House acting upon it. Looking at it in that point of view, and that alone, he moved the previous question.

Mr. Hubbard said the right to a division cannot be doubted; I might like one part and not another.

Mr. Wise observed that he presumed the gentleman from South Carolina (Mr. Campbell) had a right to make his motion in his own way.

The question was then taken, when there appeared—Ayes 102, nays 116.

The second branch of the resolution being then read—

A motion was made to adjourn—carried.

IN SENATE,

Thursday, Dec. 12, 1839.

A message from the President of the United States was received, which being of an Executive character, The Senate went into an Executive session, and, afterwards,

Adjourned.

HOUSE OF REPRESENTATIVES.

The question pending was on the motion of Mr. Campbell, of S. C., to reconsider the vote on the second branch of Mr. Rhett's resolution.

Mr. Campbell rose and stated, that as the House had on yesterday refused to reconsider the first branch of Mr. Rhett's resolution, he would now withdraw the motion to reconsider the second branch of the resolution.

The Chair announced that the gentleman from South Carolina had withdrawn his motion to reconsider.

Mr. Wise. Then I presume the resolution which the House has passed will be put in operation, and that the Clerk will proceed under it to call the roll of the House.

The Clerk then commenced at Pennsylvania, where he had left off on the first day of the session, and called the balance of the roll entirely through and immediately upon his concluding the call.

Mr. Randolph of New Jersey rose and said: the list of members having been called, I hold in my hand a paper, which I ask to be read by the Clerk.

Here several gentlemen enquired the character of the paper, and requested Mr. Randolph to give a statement of its contents before it was read.

Mr. Randolph replied and stated, if the Clerk would give him back the paper, he would read it himself, that said he, would be the best way to give the gentlemen the information they desired.

After some further remarks by the members and the Chair, Mr. Randolph was permitted to read the paper referred to, which was a protest, signed by Messrs. Ayerig, Halsted, Maxwell, Shrother, and Yorke, the excluded members from New Jersey, protesting against the action of the House, by which they were excluded from voting on questions previous to an examination of their case, and concluded by moving that the protest be entered on the Journals of the House.

Mr. Mercer moved the previous question on that motion, and called the ayes and nays.

The motion being seconded, it was carried in the affirmative—Ayes 107, nays 67.

The question was taken on the main question, which was to enter the protest on the Journals, and was decided in the negative—Ayes 114, nays 117.

The Chair then stated that the first part of the resolution of the gentleman from South Carolina, which had been adopted by the House, had been carried into

effect. It would now be for the House to carry into effect the second part of the resolution, which was in the following words: "and after the names of such members are called, and before a Speaker is elected, they shall, provided there be a quorum of such present, qualifications and adjourn upon the election, returns, and qualifications of all elements (Mr. Ingersoll and Mr. Naylor excepted) to the seats contested on the floor.

Mr. Pickens rose, and submitted the following proposition, with a view of carrying into effect the latter part of the resolution of the gentleman from South Carolina:

Resolved, That a select committee, to consist of nine, be appointed, vice seors, by the members of this House, to whom shall be referred all the papers in the possession of the Clerk relating to contests for seats on this floor from the State of New Jersey, and that they be reported.

Upon this resolution, the previous question was moved and seconded, and the main question was ordered.—The yeas upon the main question were 122, says 84, so the resolution was adopted.

Mr. Thompson, of South Carolina, rose and said that he held in his hand a resolution, which he intended to present, and on which he should not move the previous question to prevent any absurdity that might contain from being exposed, as other gentlemen had done in the case of the resolutions presented by them. The House had resolved that it would consider these elections, when he was persuaded that they had no power to move one step in the matter. The members from New Jersey who held the Governor's certificates, have presented the prima facie evidence of their right to the seats they claimed. The members who contest their seats present evidence to show that they have received a majority of the votes given; and it is contended that theirs is the best prima facie evidence, unless it can be shown that that majority was made up of the votes of aliens, as contended for on the other side. Mr. T. then went on to show that it would be impossible to do justice to either party, without hearing all the evidence that might be deemed necessary by both parties; and that the House had no power, in its present state, to summon and compel the attendance of witnesses. He knew not how the House was to act, but he had seen enough to know that the strongest principle in the nature of man was party feeling; and under the influence of that feeling, he had seen the sacred principles of the Constitution trampled down. He deemed it highly necessary that the committee should act under the responsibilities of an oath; but as such could be administered, but in an informal manner, he had drawn up a resolution for that purpose, which he now submitted to the House. Mr. T. here read his resolution, as follows:

Resolved, That the committee raised on the New Jersey election, have power to send for persons and papers, and to swear witnesses; and that the members of said committee be themselves sworn before entering upon their duties.

Mr. Pickens having obtained the floor, said: I move this resolution as an amendment to that offered by my colleague. I desire, before proceeding into a discussion of the question, to state very briefly the position which I occupy upon it. If the House chooses, in its wisdom, to raise a select committee in this case, I desire that the action of that committee shall be confined to some distinct action, and to the distinct question raised by this House. I desire their action to be confined to the simple question, "who are returned as members from the State of New Jersey?" I agree in the justice of many of the remarks of my colleague in relation to the position now occupied by the House. I understand this from the first, and therefore I voted against the resolution of the gentleman from Virginia, (Mr. Wise,) and yesterday voted against the resolution of my colleague, for I foresaw the very difficulties in which we are now involved; and I take the occasion to say, that I voted against the resolution of the gentleman from Virginia for another reason, and that was, I desired a different mode of proceeding than the one contemplated by him. If I had been called upon to vote upon the resolution of the gentleman from Virginia on the first day of our meeting, I would have voted in the affirmative. I thought that those members from New Jersey who held the certificates of the Governor of their State were entitled to take their seats, and to hold them until it should be shown that the contesting claimants had a better title. I desired that course of proceeding in order to give efficiency to our organization; but the House thought proper to take a different course. I thought it due to the country, to our own dignity, and to a sovereign State of this Union, that the certificates of her constituted authorities should be received as prima facie evidence; and I regret that a triumphant party, flushed with its recent victories in different sections of the Union, should have taken a different course. They have thought proper to take a course different from the one I approved of, and we are now involved in difficulties very little creditable to an American Congress. It is true that the House has already thought proper to bring forward, in an informal manner, certain testimony connected with the case; but it is a question, whether that is not competent testimony under the Constitution; and I contend that at this House has a right to decide the question on the first day of the session, if they thought proper. I will read that clause of the Constitution, under which this House has the power to act on this subject.

Each House shall be the judge of the elections, returns, and qualifications of its own members.

It will be perceived that the Constitution, in this clause, makes three distinct subjects on which this House is entitled to decide. I contend that they are, in their very nature, distinct questions. It may decide that a member is returned, and that he is, under the Constitution, totally disqualified.

Suppose you judge of the returns of a member who is under twenty-five years of age, or an alien; he may have a majority, and not be entitled, under the Constitution, to take his seat. So we may decide that a member is entitled to the returns, because he has a majority, of the polls, and yet not be legally elected, because that majority was made up of persons who had no right to vote. In the progress of this case, we have seen one notorious fact admitted. It is admitted by the papers, and admitted by the gentlemen from New Jersey themselves, that a majority of the votes of the people of New Jersey were given to other members than those claiming their seats under the certificates of the Governor. That fact was admitted by them, with one qualification; and that was, that that majority was made up of illegal votes. This admission, therefore, is giving up the whole question. Who decided that they were not legal votes? Was it the Governor? The Clerk? Sir, I lay down this broad proposition, and challenge a reply: that there is no officer or State authority whatever, who can decide upon the legality of votes, after they are once deposited in the ballot boxes. You may challenge votes at the polls as done in the State of Virginia; but the proposition I contend for is this—

Mr. P. after portraying in forcible language the evil flowing from party spirit, said, that for many years past there had been too strong an Executive action in this Government, and that it was time for the Representatives of the people to spurn at Executive dictation, and assert their own independence. It was time, he said, that they should redeem the House from a base subserviency to that monster god, party, and to look with a single eye to the welfare of the country.

I have introduced the resolution, Mr. P. continued, to meet the case before the House. I maintain that we are, by the Constitution, the exclusive judges of the return of our own members, and that there is no concurrent jurisdiction in any State, Governor, or Legislature; and, in maintaining these principles, I maintain the principles that are essential to the preservation of American liberty. The propositions I lay down are, 1. That this House is the sole and exclusive judge of the elections, returns, and qualifications of its own members; 2. That no State officers have the right to take into consideration the legality of the votes after they have been deposited in the ballot boxes; and, 3. That those who have the majority of the votes have a right to the returns. Upon

of taking the advantage of being allowed to make an explanation, and then making an argument in defense of it.

Mr. Wise said there was a law of the State of Virginia appointing a commission to purge the polls—not at the time and place of the elections, but within a given number of days thereafter.

Mr. Pickens continued. I admit the proposition of the gentlemen from Virginia. I admit that the State of Virginia has taken upon herself to purge the votes after they have been received into the ballot boxes. I ask if that is the naked proposition? and it so, I am prepared to demonstrate the unconstitutionality of it.

Mr. Wise made a brief explanation, which from the noise prevailing, the Reporters did not hear. It related principally to the manner of voting in Virginia, which is vice seors.

Mr. Pickens resumed. The proposition I maintain is, that under that clause of the Constitution I have just quoted, we are created, in the very terms of the Constitution, the sole and exclusive judges of the returns; and if any State authority interposes to purge the polls, after the votes have been deposited in the ballot boxes, or after they have been given, vice seors, if you please, as in the State of Virginia, (unless he does it for the purpose of ascertaining whether the votes have the qualifications requisite for the most numerous branch of the State Legislature,)—unless he does it to carry out that provision of the Constitution, it is a most gross violation of the rights of this House. Here let me observe, in reflecting upon this clause, that it strikingly displays the wisdom of those who framed this instrument. Suppose a contrary result, and that the Constitution gave to the State authorities the power of judging of the returns of the Representatives! This House would be at the mercy of this or that confounding party in every State. It was essential to the preservation of its purity and independence, that it should possess the power given to it by the Constitution, of judging of the elections, returns, and qualifications of its own members. You cannot get over the plain and palpable provisions of the Constitution. I do not understand that the question has been raised by any gentleman here, that the State authorities of New Jersey have the right to purge the polls after the elections are over. It being admitted that they have not that right, I contend that we have the right to judge of the returns of the members of the Representatives! This House would be at the mercy of this or that confounding party in every State.

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## Summer Goods.

SPRINGS & SHANKLE  
HAVE just received from New York and Philadelphia, an extensive assortment of  
**SPRING & SUMMER GOODS**

CONSISTING OF—  
Dry Goods, Hardware, Tinware, Crockery, GROCERIES, Drugs and Medicines, Dye-Stuffs, Paints and Oil, Boots and Shoes, Saddlery, &c., &c.

In short, their Stock comprises almost every article needed by the Farmer, Mechanic, or the Fashionables of the town or country.

N. B. They will sell low for cash, or to punctual dealers on time; or in exchange for country Produce.

Concord, May 24th, 1839.

## NEW JEWELRY, &c.



JOHN C. PALMER, has another new supply of gold and silver

Leather Watches,

plain English and French, do, gold Fob Chains and Keys, Breast Pins, Finger Rings, silver Butter Knives, Pencils, (patent and plain,) Tooth-Picks, Fob Chains, Spectacles and Thimbles, Steel and Gilt Fob Chains and Keys.

Also—a very fine and large assortment of Razors, pocket and pen-knives, by different Manufacturers, with other articles usually kept by Jewelers, all of which will be sold very low for cash, or only six months credit, after which time, interest will be charged.

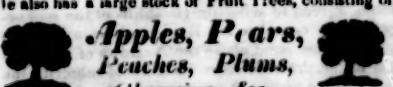
Work done faithfully and punctually.

Salisbury, May 2, 1839.

## Morus Multicaulis.

### FRUIT TREES. &c.

THE Subcriber informs the public, that he has for sale, at his Nurseries in Davidson County, 15,000 trees of the Morus Multicaulis, (and also a large number of rooted layers or cuttings of the same, of the current year's growth;) these are superior to cuttings without roots to propagate from. His prices shall be the market price of the article in the North, and elsewhere. He also has a large stock of Fruit Trees, consisting of



being selections of the best American and European fruits, all of which are grafted or inoscillated, and in healthy, growing condition.

I will deliver Trees in good condition, at any reasonable distance from Lexington, my 75 or 100 miles, (if amount of orders will justify it,) for which I will charge the usual price of hauling. It will be well for those who wish to obtain trees, to get the Catalogue of the Nurseries, which contains prices, and will be sent gratis to all applicants, the postage being paid. Communications will be promptly attended to.

Direct to Lexington, N. C.

CHARLES MOCK.

Lexington, N. C., Sept. 6, 1839.

6m.

Cress & Boger

AVE on hand and offer for sale the following articles cheap for cash or on time to punctual dealers:

Fine invisible green, blue and black Cloths; Satin vesting, figured, very handsome;

Black and drab Date for Summer wear;

8 pieces Kentucky Jeans; 100 do brown Domestic; 100 do Blue Ticking; 2,000 lbs. Spun Cotton, S. F.

60 lbs. blue Cotton Yarn; 50 lbs. Turkey Red;

15 kegs nail, assort'd sizes;

4 genuine spoushous 2 1/2 lbs.

4 smtts' Belows;

1 dog. 12-mms' Axes; 18 finished Rifle barrels; 3 doz. weaving Reeds, Philadelphia make; Scotch and Macauca Fluff; 1 box best cavendish Tobacco; 18 or 20 Ht. Amber Holing Cloth, from No. 5 to 9; assortment of screen wire, &c. — ALSO —

Sugar, Coffee, Molasses, French and Champaign Brandy, Wines of different kinds; Holland Gin, &c., &c.

July 20, 1839.

ff

BOLTING CLOTHS.

THE SUBSCRIBERS

AVE on hand, and intend keeping a supply of the best Anchor Stamp Bolting Cloths, comprising all the various Nos. used in this region of country.—Where all who wish the article can be supplied in quantities to suit purchasers, and on reasonable terms.

— ALSO —

Wove Wire for Screens, Sifters, &c., kept constantly on hand.

HALL & JOHNSON,

FOOT of HAYMOUNT.

Fayetteville, May 17, 1839.

ff

The Heath Tract.

THE above TRACT of LAND advertised in another part of this paper, is still

FOR SALE.

and any one wishing to purchase can, by paying two or three hundred dollars down, have the chance to pay the balance on any reasonable time.

B. AUSTIN, Agent.

Salisbury, July 5, 1839.

ff

Wrapping Paper, &c.

THE Subscribers have just received a large assortment of brown and colored WRAPPING paper; together with a large quantity of PASTE BOARD, which they offer at wholesale or retail.

C. B. & C. K. WHEELER.

June 7, 1839.

ff

FOR SALE.

FROM 75,000 to 100,000 of the

Morus Multicaulis Cuttings.

— Apply at this Office.

September 20, 1839.

ff

Notice.

THE Subcriber has on hand, and for Sale, at his Shop, in Salisbury, three first rate Road Wagons.

SIMEON HIELICK.

December 6, 1839.

ff

Wanted

THE SUBSCRIBERS

ARE now receiving at their old Stand, at Stirewalt's

Mill, in Cabarrus, a new and fresh supply of

Spring and Summer Goods.

The following articles are among the latest arrivals:

1,700 lbs. of Sugar,

1,600 do. Coffee,

5 lbs. Molasses,

50 bushels Salt,

Wines, Cognac Brandy, Dye Stuffs, Powder, &c., &c.

all of which will be sold low for cash, or to punctual dealers on time.

JACOB WINECOFF & CO.

May 1st, 1839.

ff

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